S.B.Criminal Revision Petition No.1306/2007

Smt. Teeja & Ors.
V.
State of Rajasthan & Anr.

Date of Order :: 18th December, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. R.K.Charan, for the petitioners.
Mr. O.P.Rathi, Public Prosecutor.
Mr. B.L.Bishnoi, for the respondent.

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This petition under Section 397 read with 401 Cr.P.C. is preferred to challenge the order dated 23.11.2007 passed by learned Sub Divisional Magistrate, Pipad City for attachment of the property situated at khasra No.54 and further appoint Station House Officer, Police Station, Pipad City as receiver.

The contention of counsel for the petitioners while assailing validity of the order aforesaid is that the possession of the property in question was with the petitioners and, therefore, there was no occasion for making any order to attach the property and appoint a receiver. It is also contended by counsel for the petitioners that while adhering the proceedings under Sections 145, 146 Cr.P.C. no attachment should be made that operate as dispossession of the owner from the property. To substantiate the contention, reliance is also placed upon a single bench judgment of Hon'ble Allahabad High Court in the case of Smt. Kamla Devi v. State of U.P. and another, reported in 1988(2) Crimes 724.

Per contra, it is stated by counsel for the respondent that the petitioners or their family never resided in the disputed property and as such they cannot have any possession over the land in dispute. It is asserted that the petitioners preferred a revenue suit before the Sub Divisional Officer, Pipad City alongwith an application under Section 212 of the Rajasthan Tenancy Act, 1955 seeking an interim injunction to retain possession of the land in question that came to be rejected on 31.8.2007 with a specific finding that physical possession over the land in dispute was not with the petitioners. By an another order dated 31.10.2007 in review petition the parties to the revenue suit were directed to maintain status quo and the petitioner just to frustrate the orders passed by the revenue courts tried to take over possession over the land in question. Emphasis is also given by counsel for the respondent that the Magistrate is having ample power under sub-section(4) of Section 145 Cr.P.C. to pass an appropriate order, if it is found that the possession has been forcibly and wrongfully taken within two months before the date on which report of a police officer or the other information was received by the Magistrate.

I have heard counsel for the parties and perused the order impugned and the other documents available on record.

From perusal of the orders dated 31.8.2007 and 31.10.2007 it is apparent that the dispute regarding possession over the land exists and the Station House Officer found by making adequate inquiry a danger to the peace and, thus, the Magistrate rightly decided to attach the property and appoint a receiver. From examination of the order impugned, I do not find any error that may warrant interference of this Court in its revisional jurisdiction, however, in totality of facts the proceedings initiated requires expeditious decision.

Thus, this revision petition is dismissed with a direction to the Sub Divisional Magistrate, Pipad City to decide the proceedings initiated as per the provisions of Section 145 Cr.P.C. as early as possible preferably within a period of one month from today.

(GOVIND MATHUR),J.

Kkm/ps.